

1 Sonya D. Winner, SB # 200348
 2 David M. Jolley, SB # 191164
 3 Margaret G. May, SB # 234910
 COVINGTON & BURLING LLP
 One Front Street
 San Francisco, CA 94111
 Telephone: (415) 591-6000
 Facsimile: (415) 591-6091
 swinner@cov.com

6 Attorneys for Defendants
 7 WELLS FARGO BANK, N.A. and
 WELLS FARGO & CO.

8 UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 VERONICA GUTIERREZ, TIM FOX,
 11 ERIN WALKER and WILLIAM SMITH,
 12 as individuals, and on behalf of all others
 similarly situated,

13 Plaintiffs,

14 v.

15 WELLS FARGO & COMPANY; WELLS
 16 FARGO BANK, N.A.; and DOES 1 through
 125,

17 Defendants.

Civil Case No.: CV-07-5923 WHA

**REQUESTS FOR ADMISSION
 FROM WELLS FARGO BANK,
 N.A. TO PLAINTIFF VERONICA
 GUTIERREZ (SET TWO) [Nos. 5-8]**

19 REQUESTING PARTY: Defendant WELLS FARGO BANK, N.A.

20 RESPONDING PARTY: Plaintiff VERONICA GUTIERREZ

21 SET NO.: Two (Nos. 5-8)

22 Pursuant to Rule 36 of the Federal Rules of Civil Procedure, defendant Wells
 23 Fargo Bank, N.A. hereby requests that plaintiff Veronica Gutierrez respond to the following
 24 requests for admission, under oath and in writing. Such response shall be produced at the
 25 offices of Covington & Burling LLP, One Front Street, San Francisco, CA 94111, within 30
 26 days, or on such other day as may be directed by the Court.
 27

28 REQUESTS FOR ADMISSION FROM WELLS FARGO
 BANK, N.A. TO PLAINTIFF VERONICA GUTIERREZ (SET
 TWO) [Nos. 5-8]
 Civil Case No.: CV-07-5923 WHA

DEFINITIONS

1. The term "YOU" includes plaintiff Veronica Gutierrez, her agents and representatives, and/or all other persons acting on her behalf.

2. "DEBIT TRANSACTIONS" means all items listed on your monthly account statement for the period(s) in question in the sections entitled "Withdrawals" (including the subsections for "Checks" and "Other withdrawals") *except for* any Overdraft Fees, Continuous OD Level 2 Charges, NSF Returned Item Fees, or other Wells Fargo Bank fees.

3. "CREDIT TRANSACTIONS" means all items listed on your monthly account statement for the period(s) in question in the section entitled "Deposits."

4. "GENUINE TRANSACTION" means a DEBIT or CREDIT TRANSACTION that you initiated and performed in the expectation that the transaction amount would at some point in time be added (for CREDIT TRANSACTIONS) or subtracted (for DEBIT TRANSACTIONS) from your account balance. (For purpose of this definition and these requests, the specific date and/or time when you expected the transaction to be added or subtracted from your account is immaterial.)

INSTRUCTIONS

1. The answer to any request for admission shall fairly and completely meet the substance of the requested admission. If your answer to any admission is qualified in any particular way, then you must state the facts of such qualification with particularity. Lack of knowledge or information is an insufficient basis for failure to answer fully a request for admission, unless you also state that you have made a reasonable inquiry and the information known or readily obtainable by you is insufficient to enable you to admit or deny.

2. Where an objection is interposed to any request for admission, the objection shall state with specificity all bases and grounds for the objections. A request for admission may not be objected to solely on the ground that the matter inquired into presents a genuine issue for trial.

3. If, in responding to any of these requests for admission, you encounter any ambiguity in construing either the request, a definition, or an instruction, state with

1 specificity the matter deemed ambiguous and identify the construction chosen or used in
 2 responding to the request.

3 4. In construing these requests for admission, the singular shall be deemed
 4 to include the plural and vice versa, so as to make each request inclusive rather than exclusive.
 5 The word "and" shall be deemed to include the disjunctive "or" and vice versa, so as to make
 6 each request inclusive rather than exclusive. The past tense shall be construed to include the
 7 present and future tenses and vice versa, so as to make each request inclusive rather than
 8 exclusive. The terms "all" and "any," whether used separately or together, shall be interpreted
 9 to encompass all material, events, incidents, persons, or information responsive to the request in
 10 which those terms appear.

11 5. Any matter admitted is conclusively established unless the court on
 12 motion permits withdrawal or amendment of the admission.

13 6. If you fail to respond to these requests for admission within the time
 14 allowed, every matter set forth in these requests may be deemed admitted and conclusively
 15 established against you for the purposes of this action.

16 7. These requests for admission are continuing in nature so as to require
 17 supplemental response as provided by the Federal Rules of Civil Procedure in the event you
 18 obtain or discover additional relevant information between the time of the initial response to
 19 these requests for admission and the time of the final disposition of this action.

20 **REQUESTS FOR ADMISSION**

21 **REQUEST FOR ADMISSION NO. 5:**

22 YOU do not dispute in this case that all DEBIT TRANSACTIONS shown on
 23 your monthly account statement for the period ending November 6, 2006 (attached as Exhibit 1)
 24 reflect GENUINE TRANSACTIONS.

25 **REQUEST FOR ADMISSION NO. 6:**

26 YOU do not dispute in this case that all CREDIT TRANSACTIONS shown on
 27 your monthly account statement for the period ending November 6, 2006 (attached as Exhibit 1)
 28 reflect GENUINE TRANSACTIONS.

1 **REQUEST FOR ADMISSION NO. 7:**

2 YOU do not dispute in this case the accuracy of the transaction amounts for any
3 DEBIT TRANSACTIONS shown on your monthly account statement for the period ending
4 November 6, 2006 (attached as Exhibit 1).

5 **REQUEST FOR ADMISSION NO. 8:**

6 YOU do not dispute in this case the accuracy of the transaction amounts for any
7 CREDIT TRANSACTIONS shown on your monthly account statement for the period ending
8 November 6, 2006 (attached as Exhibit 1).

9
10 DATED: June 5, 2008

COVINGTON & BURLING LLP

11
12 By: 
13 David M. Jolley
14 Attorneys for Defendants
15 WELLS FARGO BANK, N.A. and
16 WELLS FARGO & CO.

EXHIBIT 1

Account Statement

October 6 through November 6, 2006
 Account Number:
 Page 1 of 6

REDACTED

VERONICA E GUTIERREZ

REDACTED

Thank you for banking with Wells Fargo. For assistance, call: 1-800-TO-WELLS (1-800-869-3557), TDD number (for the hearing impaired only): 1-800-877-4833. Or write: WELLS FARGO BANK, N.A., P.O. BOX 6995, PORTLAND, OR 97228-6995.

Account Summary**Daily access accounts**

Account	Account number	Balance last period	Balance this period
Advantage Checking	188-5720910	\$324.97	\$35.65
Advantage Market Rate Savings	188-5724789	120.23	2.03
Total		\$445.20	\$37.68

The following changes are effective January 1, 2007.* Overdraft (Paid Item): 1 occasion, \$23 per item; 2+ occasions, \$34 per item. Insufficient Funds (Returned Item): 1 occasion, \$23 per item; 2+ occasions, \$34 per item. Fees based on the number of occasions in the preceding 12-month period. An occasion is a day in which your account has insufficient funds to cover an item. Fees are subject to a daily maximum of 10 Paid and/or Returned Item Fees.

For questions, please contact your Wells Fargo Banker or call 1-800-869-3557. We appreciate your business and look forward to continuing to serve your financial needs.

*Effective February 15, 2007, for quarterly savings accounts.

Advantage Checking

Veronica E Gutierrez

Account Number:

REDACTED**Activity summary**

Balance on 10/05	\$324.97
Deposits and interest	1,075.23
Withdrawals	-1,364.55
.....	
Balance on 11/06	\$35.65

Continued on next page

October 6 through November 6, 2006

Account Number:

Page 2 of 6

REDACTED

Interest you've earned	
Interest earned this period	\$0.01
Average collected balance this period	\$146.41
Annual percentage yield earned	0.08%
Interest and bonuses paid this year	\$0.19

Before you leave on your next vacation, don't forget to get American Express Travelers Cheques. For more information and to purchase your Travelers Cheques talk to your local banker or sign on to Wells Fargo Online Banking at wellsfargo.com and select Account Services/Order Travelers Cheques.

Activity detail**Deposits and interest**

Date	Description	\$ Amount
10/10	Check Crd Pur Rtn 10/05 Autozone #5613 Fontana Ca 446024XXXXXX6509 281640013839957?MCC=5533 121042882DA	17.23
10/13	Autozone West In Payroll 061007 10234468 Gutierrez,Veronica	412.90
10/18	Online Transfer Ref #IBEBST9Gtv From MRS 1885724Xxx On 10/18/06	40.00
10/27	Autozone West In Payroll 061021 10234468 Gutierrez,Veronica	548.09
10/30	Online Transfer Ref #IBEQF2V2J6 From MRS 1885724Xxx On 10/30/06	40.00
11/06	Online Transfer Ref #IBEMHZND75 From MRS 1885724Xxx On 11/03/06	15.00
11/06	Interest Payment	0.01
11/06	Discount For ACH Direct Deposits	2.00
Total deposits and interest		\$1,075.23

Withdrawals**Checks**

Number	Date	\$ Amount	Number	Date	\$ Amount	Number	Date	\$ Amount
1097	10/30	155.00	1103*	10/10	65.00	1104	11/01	68.00
Total checks								\$288.00
* Gap in Check Sequence								

Continued on next page

CONFIDENTIAL
WFB-G 01908

October 6 through November 6, 2006

Account Number:

Page 3 of 6

REDACTED

<i>Other withdrawals</i>		\$ Amount
Date	Description	
10/06	Check Crd Purchase 10/05 Walgreen 00053728 Fontana Ca 446024XXXXXX6509 279640008494683 ?MCC=5912 121042882DA	8.07
10/10	Online Transfer To Gutierrez P Ref #IBEQDZSV94 Checking Tickets	80.00
10/10	ATM Withdrawal -10/06 Mach ID WCAD5985 *hollywood Bowlbank Of Amhollywood Ca 6509	22.00
10/10	Non-Wells Fargo ATM Transaction Fee	2.00
10/10	Check Crd Purchase 10/07 Albertsons #6590 Ontario Ca 446024XXXXXX6509 282640009590866 ?MCC=5411 121042882DA	74.39
10/10	Check Crd Purchase 10/05 Autozone #5613 Fontana Ca 446024XXXXXX6509 281640013839958 ?MCC=5533 121042882DA	47.99
10/10	Check Crd Purchase 10/06 Ihop #759 Rancho Cucamonga Ca 446024XXXXXX6509 282640007345389 ?MCC=5812 121042882DA	26.51
10/10	Check Crd Purchase 10/05 Autozone #5609 Chino Ca 446024XXXXXX6509 281640013839956 ?MCC=5533 121042882DA	17.23
10/10	Check Crd Purchase 10/05 Subway 3458 00034587 Fontana Ca 446024XXXXXX6509 282640006618320 ?MCC=5814 121042882DA	11.27
10/10	Check Crd Purchase 10/06 Farmer Boys - Irwindale Irwindale Ca 446024XXXXXX6509 282640009501542 ?MCC=5814 121042882DA	8.10
10/10	Check Crd Purchase 10/05 Autozone #5613 Fontana Ca 446024XXXXXX6509 281640013839959 ?MCC=5533 121042882DA	3.23
10/11	Overdraft Fee	22.00
10/11	Check Crd Purchase 10/09 Jack In The BO00053009 Rancho Cucamonga Ca 446024XXXXXX6509 284640006377686 ?MCC=5814 121042882DA	5.68
10/12	Overdraft Fee	22.00
10/12	Check Crd Purchase 10/10 EXXONMOBIL59 01291228 Rancho C Ca 446024XXXXXX6509 285640003489753 ?MCC=5542 121042882DA	20.01
10/13	Overdraft Fee	33.00
10/13	ATM Withdrawal -10/13 Mach ID 9956B Fontana North Fontana Ca 6509	20.00
10/16	Bill Pay Capital One On-Line xxxxxxxxxxxx6639 On 10-16	120.00
10/16	Bill Pay WF Credit Card On-Line XXXXXXXXXXXXXXX0056 On 10-16	40.00
10/16	Check Crd Purchase 10/13 Shell Oil 27428114907 Fontana Ca 446024XXXXXX6509 288640010720234 ?MCC=5542 121042882DA	31.90
10/27	POS Purchase -10/26 Mach ID 000000 City Liquor Andcity Liquofontana Ca 6509 ?MCC=5921 121042882DA	11.50
10/30	Bill Pay MBNA America On-Line xxxxxxxxxxxx2868 On 10-30	161.00
10/30	Bill Pay Chase Platinum M On-Line xxxxxxxxxxxx7649 On 10-30	130.00
10/30	Check Crd Purchase 10/26 Shell Oil 27428114907 Fontana Ca 446024XXXXXX6509 302640013338921 ?MCC=5542 121042882DA	20.01
10/30	POS Purchase -10/28 Mach ID 000000 7-Eleven 7-Eleven Fontana Ca 6509 ?MCC=5541 121042882DA	13.31
10/30	Check Crd Purchase 10/26 Jack In The BO00053009 Rancho Cucamonga Ca 446024XXXXXX6509 302640013129213 ?MCC=5814 121042882DA	6.35
11/02	Check Crd Purchase 10/31 Chevron 00210657 Fontana Ca 446024XXXXXX6509 306640007525858 ?MCC=5542 121042882DA	20.00

Continued on next page

October 6 through November 6, 2006

Account Number:

Page 4 of 6

REDACTED*Other withdrawals -continued*

Date	Description	\$ Amount
11/06	ATM Withdrawal - 11/03 Mach ID 4380B Fontana Offsite Fontana Ca 6509	20.00
11/06	Monthly Service Fee	12.00
11/06	Monthly Point-Of-Sale (POS) Purchase Fee	1.00
		\$1,076.55
Total other withdrawals		
		\$1,364.55
Total withdrawals		

Daily balance summary

Date	\$ Balance	Date	\$ Balance	Date	\$ Balance
10/05	324.97	10/13	200.62	11/01	71.64
10/06	316.90	10/16	8.72	11/02	51.64
10/10	-23.59	10/18	48.72	11/06	35.65
10/11	-117.27	10/27	585.31		
10/12	-159.28	10/30	139.64		

Direct Deposit Advance (Lender - Wells Fargo Bank, N.A.)

Outstanding advance balance as of the beginning of this statement period including Finance Charges	\$0.00
Outstanding advance balance as of the end of this statement period including Finance Charges	\$0.00

Finance Charges incurred on advances taken during this statement period	\$0.00
---	--------

Current advance credit limit	\$500.00
------------------------------	----------

CHOOSE THE DIRECT DEPOSIT ADVANCE SERVICE TO ACCESS UP TO \$500 PRIOR TO RECEIVING YOUR RECURRING DIRECT DEPOSIT INCOME. JUST USE THE ATM, ONLINE OR CALL THE PHONE BANK. SEE YOUR CONSUMER ACCOUNT FEE AND INFORMATION SCHEDULE FOR COMPLETE DETAILS.

Advantage Market Rate Savings

Veronica E Gutierrez

Account Number:

REDACTED**Activity summary**

Balance on 10/05	\$120.23
Deposits and interest	106.80
Withdrawals	-225.00
Balance on 11/06	\$2.03

Continued on next page

October 6 through November 6, 2006

Account Number:

Page 5 of 6

REDACTED**Interest you've earned**

Average collected balance this period	\$34.66
Annual percentage yield earned	0.66%
Interest and bonuses paid to date this year	\$0.73
Interest paid during this period	\$0.02
Interest earned for this statement period	\$0.02

Before you leave on your next vacation, don't forget to get American Express Travelers Cheques. For more information and to purchase your Travelers Cheques talk to your local banker or sign on to Wells Fargo Online Banking at wellsfargo.com and select Account Services/Order Travelers Cheques.

Activity detail**Deposits and interest**

Date	Description	\$ Amount
10/13	Autozone West In Payroll 061007 10234468 Gutierrez,Veronica	45.88
10/27	Autozone West In Payroll 061021 10234468 Gutierrez,Veronica	60.90
10/31	Interest Payment	0.02
Total deposits and interest		\$106.80

Withdrawals**Date Description**

Date	Description	\$ Amount
10/10	ATM Withdrawal -10/07 Mach ID 9956B Fontana North Fontana Ca 6509	120.00
10/18	Online Transfer Ref #IBEBST9Giv To Checking 1885720Xxx On 10/18/06	40.00
10/30	Online Transfer Ref #IBEQF2V2J6 To Checking 1885720Xxx On 10/30/06	40.00
10/31	Monthly Service Fee	10.00
11/06	Online Transfer Ref #IBEMHZND75 To Checking 1885720Xxx On 11/03/06	15.00
Total withdrawals		\$225.00

Thank you for banking with Wells Fargo.

CONFIDENTIAL
WFB-G 01911

